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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,456	11/10/2003	Matt Clark	109927-135179	6697

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EXAMINER
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DAGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/705,456

**Applicant(s)**

CLARK ET AL.

**Examiner**

Stephen M. D'Agosta

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

**Claim 1** objected to because of the following informalities: There appears to be a typo in this claim – As written, it states:

“...encapsulating a function call encapsulation of a function-specific parameter identified a associated with an executable programming interface layer function...”.

***The examiner believes it should read as follows:***

“..encapsulating a function call encapsulation of a function-specific parameter identified **and** associated with an executable programming interface layer function..”.

Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

**A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).**

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 1-14** provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 2004/0138961. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims

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recite handling a data request/query sent from a client via an programming interface layer/API application to service provider(s) application(s)/server(s) to obtain "a response" (eg. solution set) which is generated and sent from said applications(s)/server(s) to said client. This application claims "encapsulation" which is well known in the art and is commonly used by communications protocols as well as applications when sending a request between systems (eg. when using HTTP, CGI, XML, etc.).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 1** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The primary examiner is having a very difficult time understanding this claim and exactly what is being claimed.

1) Can you give an example of what you mean by a "programming interface layer"? Is this the program the user uses OR is it maybe "hidden" from the user and only utilized by the application (like HTTP or TCP/IP or XML, etc.)?

2) Are there two programs being described? Ie. is one doing the "encapsulating" of the actual application's "function call"?

3) What is meant by "said programming interface function call includes said function call encapsulation data"?

4) Is the programming interface layer a client-only program, a server-only program or a client-and-server program?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4, 6-8, 10-12 and 14** rejected under 35 U.S.C. 103(a) as being unpatentable over Shapiro et al. US 2002/0120787 and further in view of Fischer et al. US 2003/0046448 and Jones et al. US 6,216,173.

As per **claims 1, 3, 7 and 11**, Shapiro teaches a computer implemented method for accessing a wireless mobile device service provider server (figures 2a-c shows system and P#63 teaches wired/wireless connections, figures 4-5, 7, 9-12), comprising:

encapsulating a function call encapsulation of a function-specific parameter identified **and** associated with an executable programming interface layer function (P#64 teaches either using an HTTP request directly and/or using other executable components to broker the request to an application server, which the primary examiner interprets as encapsulating/translating a function call of a specific parameter of said request so as to retrieve data from a server. Also see P#65-70, 81 and 107-110);

**but is silent on** via a programming interface layer, generating a programming interface function call directed to said executable programming interface layer function, wherein said programming interface function call includes said function call encapsulation of data; and obtaining an indication of an programming interface response from said executable programming interface layer function.

Fischer teaches a "programming interface layer" for mobile/handheld devices so applications may run on any of such devices without specific programming for device specific dependencies (Abstract, figures 1-3 and P#11).

Jones teaches: "...Remote service call (RSC) manager 125 enables simple, high performance function calls to be passed between CPR services, independently of location. The remote service call

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manager handles the packaging or encapsulation of function calls and parameters into media objects for delivery to the appropriate service and the unpackaging at the receiving end. The remote service call manager also manages the return and packaging/unpackaging of results as media objects. The interaction between the RSC manager and CPR services is described more fully with respect to FIGS. 2, 4, and 5A-B, later in this specification....". (C23, L30-65)

***With further regard to claim 3***, Shapiro teaches a processor and memory coupled to the processor having a plurality of programming instructions implementing a programming interface layer for service provider delivery of data services to client devices (figures 2a-c show web servers and applications servers which have software to interface and deliver data to client(s)), the programming interface layer including solution delivery functions usable by any of a plurality of vendors to deliver solutions via the service provider (figures 2a-c show multiple application servers connecting to a web server which connects to the client). ***All else for this claim is found above in claim 1.***

***With further regard to claim 7***, Sharpiron teaches solution delivery functions usable by any of a plurality of vendors to deliver solutions via the service provider (see figures 2a-c which show various application servers and databases/backend systems connected to at least one web server, which reads on the claim).

***With further regard to claim 11***, Sharpiron teaches a computer readable medium containing computer executable instructions for a programming interface layer for service provider delivery of data services to client devices (figures 2a-c show the computer components of the system which inherently require computer readable medium and software to perform Sharpiron's described method/operation).

It would have been obvious to one skilled in the art at the time of the invention to modify Shapiro, such that there is a programming interface layer, it generates a programming interface function call directed to said executable programming interface layer function, wherein said programming interface function call includes said function call encapsulation of data and obtains an indication of an programming interface

response from said executable programming interface layer function, to provide means so mobile device application can run on any of such devices without specific programming for device specific dependencies and encapsulation is provided between the disparate communications system and service provider hardware to ensure the data is delivered correctly without need for translation.

As per **claim 2**, Shapiro teaches claim 1, further comprising directing said programming interface response to a specific wireless mobile device (figure 2a shows connection between client device, as described in P#63, and server(s)).

As per **claims 4, 8 and 12**, Shapiro teaches Claim 3/7/11, wherein the programming interface layer further comprises a scheduling module for scheduling tasks via said executable service functions (P#17 and #27).

As per **claims 6, 10 and 14**, Shapiro teaches Claim 3/7/11, **but is silent on** wherein said programming interface layer defines a plurality of methods including at least a selected one of AddMessage, Equals, AddData, Getstring, GetEnumerator, Createuser, Deleteuser, DoesuserExist, Getsirupconcepts, GetsupportedData, Getuserdata, Logon, Modifyuserdata, Setidentity, Setpassword, Setprimaryuserdata, AppendResource, AppendResourceReference, DoFeaturecommand, Dosolutioncommand, GetDeck, GetResources, Submitconcepts, GetInfo, and GetInfoRequest.

The primary examiner notes that many of the above are well known. The examiner takes **official notice** that at least one of these methods would be provided by one skilled in the art, such as:

- a. CreateUser – to create user(s)
- b. Logon – to create a user logon
- c. Setpassword – to set a user's password when their account is created

The primary examiner notes that Microsoft Windows has features such as these when a system administrator sets up a new user account.

It would have been obvious to one skilled in the art at the time of the invention to modify Shapiro, such that the programming interface layer defines a plurality of methods, to support various software methods/messages which are known in the art of software coding and provide means for using them in the different service providers' applications.

**Claims 5, 9 and 13** rejected under 35 U.S.C. 103(a) as being unpatentable over Shapiro/Fischer/Jones and further in view of Wookey et al. US 2003/0177259 and Wray US 2001/0010076.

As per **claims 5, 9 and 13**, Shapiro teaches Claim 3/7/11 **but is silent on** wherein said programming interface layer defines a plurality of classes including at least a selected one of AnswersResponse, BinaryResource, BooleanResponse, ClientInfo, CodeResponse, Concepts, ConceptsResponse, Conceptvalues, ConfiFile, DeckResponse, Device, Devices, Identity, ImageResource, InfoRequest, InfoRequestResponse, InfoResponse, Message, MessageResponse, Resotlrce, ResourceReference, ResourcesResponse, Response, Result, User, and UserDatGesponse.

Wookey teaches remote services systems data delivery (title, abstract) and "...A **MessageResponse** element represents an error response to a received message. The content includes enough information for the sender to relate the error to a sent message and determine what it needs to do to handle the error condition...". (Page 15, Table C – continued).

Wray teaches a security protocol system supporting self-describing markup language(s) such as XML (Title and abstract) and "...<!ELEMENT primaryResource (**ResourceReference**)> <!ELEMENT secondaryResources (ResourceReference\*)> <!ELEMENT handlerInfo (ResourceInfo\*)> <!ELEMENT payloadType (%PayloadType;)> <!ELEMENT



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**ResourceReference** (#PCDATA) > <!ELEMENT ResourceInfo (#PCDATA) >...”

(page 12, see 5 bottom lines).

It would have been obvious to one skilled in the art at the time of the invention to modify Shapiro, such that the programming interface layer defines a plurality of classes (above), to support various software classes which are known in the art of software coding and provide means for using them in the different service providers' applications.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Acosta et al. US 2004/0196815
2. Sheth et al. US 6,405,106
3. Bhatia et al. US 6,687,495
4. Heyward et al. US 2002/0042266
5. McNulty et al. US 2003/0093495

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta  
Primary Examiner  
8-19-2005

